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Mediation Styles: The Purists vs. the "Toolkit"

by Jon Linden

One of the most hotly debated topics of discussion in the mediation industry today is the question of “style” of mediation. While there are perhaps a dozen different styles, there are about 4 primary styles that exist in popular use today. They are as follows:

- 1) Facilitative
- 2) Evaluative
- 3) Transformative
- 4) Narrative

The Facilitative style is the most utilized of all the popular styles in use today. The style is characterized by providing a “framework” within which to work with parties toward a “mutually acceptable” agreement to end a conflict. The style is generally an approach characterized by the identification of the needs of the disputants, and then utilization of interactive discussion and caucuses in an effort to find a position, which is acceptable to both sides in the conflict. There are basically 6 steps to the process of facilitative mediation, and they are as follows:

- A) Open the Session/Introduction
- B) Gather Information
- C) Focus on Common Ground
- D) Create Options
- E) Discuss and Consider Options
- F) Write the Agreement/Close the Session

Of the 4 basic commonly used styles, the Facilitative style is the most structured of the four.

In the Evaluative Style, the mediator uses his skills to help disputants evaluate the positions that they espouse in the mediation. It is characterized by an effort to help disputants evaluate their respective positions and to consider whether they are practical. The evaluative style can be seen as somewhat directive, and the skillful evaluative mediator will be careful not to “impose” his or her opinion, but rather to be illustrative in helping the disputants “reality test” their positions and then help them decide what might be the prevailing position with regard to the facts and perceptions involved in the varying sides and positions.

In the use of this style, the mediator will often prevail upon the parties to evaluate their probability of prevailing if the dispute were to go to a formal litigation process. This technique can be very useful and can help disputants come to grips with the actual potential of the results of their positions in a real courtroom, in front of a jury. The technique can be very useful, when the mediation is presenting primarily legal positions and arguments and is heavily influenced by attorney opinion in the mediation process.

The Transformative Style is heavily focused on the interactions and the communications between the disputants. The body language and attitudes of the disputants is central to the Transformative style. Pointing out the manner in which disputants interact, and in which they communicate, or often fail to communicate, is the cornerstone of this style.

The style has become highly popularized through the U.S. Postal Service mediation method, known as REDRESS. Mediators hold widely varying positions on this style, and usually are either highly favorably disposed to it, or are highly critical of the style. The same seems to be true for disputants who have been in mediations with this style. Many find it highly effective in the resolution of the conflict, while others find it more like “mediator magic” where an agreement is reached, but then the next day, it is “business as usual.”

Finally, the Narrative style of mediation is based on the premise that the positions each party brings to the mediation is a product of their life’s discourses. The Narrative style tries to use conversation and discussion to get the disputants to disclose, often unwittingly, the true nature and perception of the conflict. It is done through “story telling” which in effect, allows disputants to express how and why they feel the way they do.

Once the different stories have been presented, the mediator then uses this as a basis for further discussion on the conflict. The goal is to create an “Alternative Story” which can be substituted for the conflict and result in not only a “mutually acceptable” agreement, but also in enhanced communication going forward. The technique seems to be

especially useful when there is going to be an ongoing relationship between the disputants, post-mediation.

Mediators who are “purists” subscribe to the exclusive use of one technique or another and tend to advocate whichever style they like as the ‘proper’ way to conduct a mediation. Many “purist” mediators exist for each of these four styles of mediation. Each of these mediators tends to become very facile in the use of their favored style and advocate it as the best and most appropriate method for resolving disputes.

While all four styles can be highly effective, especially when the mediator is highly skilled, there is a question as to the appropriateness of a “purist” position in mediation. If one believes that mediation is more an Art than a Science, then it begs the question as to what is the right form of ART? However, there is another approach to mediation, which can be advocated. This alternative approach can be termed the “tool kit” approach.

In the tool kit approach, the mediator recognizes that all four of the styles have validity. Each of the styles have their appropriate place and use in a mediation, and the use of any or multiple styles depends on the positions, perceptions, needs and feelings of the disputants. In many cases, it would seem that this “multi-disciplinary” approach to mediation, would be more congruent with the idea of mediation being more of an art than a science.

The tool kit approach then makes it incumbent on the mediator to be able to evaluate the type of dispute, the type and character of the disputants, and the appropriate methods to be used in any particular mediation, or at any particular point within the mediation. It advocates a much more flexible approach to the practice of mediation, and it demands a broader view of what is necessary to achieve successful completion of a mediation, resulting in an end to the particular dispute in question.

In fact, the tool kit approach to mediation would suggest, that the “purist” approach to mediation is perhaps a bit misguided and closed-minded. Should not the mediator be adaptive in each mediation and use the style or combination of styles that would appear to be appropriate to the situation at any particular time within a mediation? The tool kit approach would advocate the use of multiple styles, that is, the mediator should be willing and able to adjust and switch from one style to another in order to achieve the most effective resolution, on a long-term basis to any conflict. The tool kit approach usually would start with a facilitative beginning, but then would utilize one or more other styles to bring about agreement, as appropriate and as demanded by the contingencies involved in each mediation.

Every mediation, like every person, is unique. The tool kit approach would suggest that mediators not be bound by a specific style, but rather, use all potential methods to help bring the conflict to closure and more than just closure, to a long term resolution, which allows the disputants to go forward with their lives and avoid conflict in the future. With these considerations in mind, it would behoove mediators to become familiar with the advantages and uses of each style of mediation and to utilize the appropriate methods for the conflict in front of them, as they present proper opportunity for the use of the 4 different styles of mediation. In this way, the mediator has many more tools to be effective in conflict resolution. If the mediator uses a facilitative approach as a framework or 'shell' to begin the process, and then utilizes other methods and styles throughout the process as appropriate, it would appear that the likelihood of agreement and future communication success would be enhanced.

Biography

Jon Linden is a Mediator, Trainer and Business Consultant. He holds an BS in biology and an MBA, both from Lehigh University in Bethlehem, PA. Jon spent 20 years in the Food Service Distribution business, where he was the COO and Sr. V-P of a Distribution Center of a major Fortune 500 company in the New York Metropolitan area, before becoming an independent consultant and Mediator. His responsibilities included Human Resources, Labor Relations and many other functions. He was the chairman of the company internal Ethics Committee for 6 years. Jon is a contract mediator for the Federal Equal Employment Opportunity Commission (EEOC) and mediates for the Superior Court system of the State of New Jersey, as well as for private clients. He is the President and Founder of Proactive Intervention, L.L.C. and an Accredited Professional Mediator (APM) for Civil/Commercial Mediation by the New Jersey Association of Professional Mediators.

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